

the reinstatement of a discharged employee is appropriate shall be effective immediately upon receipt of the decision by the named person. All other portions of the judge's order are stayed pending review by the Secretary.

(c) *Final order.* (1) Within 120 days after issuance of the administrative law judge's decision and order, the Administrative Review Board, United States Department of Labor, shall issue a final decision and order based on the record and the decision and order of the administrative law judge.

(2) The parties may file with the Administrative Review Board, United States Department of Labor, briefs in support of or in opposition to the administrative law judge's decision and order within thirty days of the issuance of that decision unless the Administrative Review Board, United States Department of Labor, upon notice to the parties, establishes a different briefing schedule.

(3) The findings of the administrative law judge with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be considered conclusive.

(4) Where the Administrative Review Board, United States Department of Labor, determines that the named party has not violated the law, the final order shall deny the complaint.

(5) The final decision and order of the Administrative Review Board, United States Department of Labor, shall be served upon all parties to the proceeding.

[53 FR 47681, Nov. 25, 1988, as amended at 61 FR 19986, May 3, 1996]

§ 1978.110 Judicial review.

(a) Within 60 days after the issuance of a final order under § 1978.109, any person adversely affected or aggrieved by such order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the person resided on the date of the violation (49 U.S.C. 2305(d)(1)).

(b) A final order of the Administrative Review Board, United States Department of Labor, shall not be subject to judicial review in any criminal or

other civil proceedings (49 U.S.C. 2305(d)(2)).

(c) The record of a case, including the record of proceedings before the administrative law judge, shall be transmitted by the Administrative Review Board, United States Department of Labor, to the appropriate court pursuant to the rules of such court.

[53 FR 47681, Nov. 25, 1988, as amended at 61 FR 19986, May 3, 1996]

§ 1978.111 Withdrawal of section 405 complaints, objections, and findings; settlement.

(a) At any time prior to the filing of objections to the findings or preliminary order, an employee may withdraw his or her section 405 complaint by filing a written withdrawal with the Assistant Secretary. The Assistant Secretary shall thereafter determine whether the withdrawal shall be approved. The Assistant Secretary shall notify the named person of the approval of any withdrawal.

(b) The Assistant Secretary may withdraw his findings or a preliminary order at any time before the expiration of the 30-day objection period, provided that no objection has yet been filed, and substitute new findings or preliminary order. The date of the receipt of the substituted findings or order shall begin a new 30-day objection period.

(c) At any time before the findings or order become final, a party may withdraw his objections to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the Administrative Review Board, United States Department of Labor. The judge or the Administrative Review Board, United States Department of Labor, as the case may be, shall affirm any portion of the findings or preliminary order with respect to which the objection was withdrawn.

(d)(1) *Investigative settlements.* At any time after the filing of a section 405 complaint by an employee and before the finding and/or order are objected to, or become a final order by operation of law, the case may be settled if the Assistant Secretary, the complainant and the named person agree to a settlement.